



*United States Attorney  
Southern District of New York*

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CONTACT: U.S. ATTORNEY'S OFFICE  
HERBERT HADAD, MEGAN GAFFNEY  
HEATHER TASKER, BRIDGET KELLY  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**U.S. SETTLES WITH MANHATTAN OPHTHALMOLOGY PRACTICE  
TO RESOLVE CIVIL RIGHTS LAWSUIT**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, announced today that the United States has filed in Manhattan federal court, and simultaneously settled, a civil rights lawsuit alleging that a Manhattan ophthalmology practice violated the Americans with Disabilities Act by discriminating against a prospective patient who is deaf. A Consent Decree incorporating the terms of the settlement was approved late yesterday by United States District Judge JOHN G. KOELTL.

In its Complaint, the Government alleged that LUIVI BRUNO SAIMOVICI, M.D., doing business as Advanced Eye Care Associates, and Dr. SAIMOVICI's professional corporation, AECA Medical, PLLC (collectively, "defendants"), discriminated against MICHAEL J. RUSSO, a prospective patient, because Mr. RUSSO is deaf. According to the Complaint, Dr. SAIMOVICI, who specializes in vision correction through refractive laser surgery, advertised the availability of a "free consultation" to anyone considering "laser

vision correction." The Complaint alleged that, in response to such an advertisement, Mr. RUSSO scheduled an appointment with Dr. SAIMOVICI, advising the doctor's office that he was deaf and would require the assistance of a sign language interpreter at the consultation. The Complaint further alleged that, when Dr. SAIMOVICI learned that Mr. RUSSO was deaf and required a sign language interpreter, he refused to pay for the interpreter and cancelled Mr. RUSSO's appointment. According to the Complaint, the doctor's office told Mr. RUSSO that he was not a suitable candidate for laser eye surgery because he is deaf.

Mr. KELLEY explained that, under the Americans with Disabilities Act, a public accommodation (such as a doctor's office) may not impose eligibility criteria for the receipt of services that screen out individuals with disabilities, including individuals who are deaf or hearing impaired, from fully enjoying the services of that public accommodation, unless that criteria can be shown to be necessary for the provision of the services being offered. Mr. KELLEY further explained that a public accommodation must also furnish appropriate auxiliary aids and services, such as qualified interpreters, where necessary to ensure effective communication with individuals with disabilities. Mr. KELLEY also explained that, when assessing whether it must accommodate a patient's request for a sign language interpreter for an office visit, a doctor's office must measure the cost of the interpreter against the overall financial resources of the practice and not

against the income generated from the individual office visit.

Under the Consent Decree approved by the Court, Defendants agreed to develop a written policy for providing their services to individuals with disabilities, including individuals with hearing impairments. Defendants further agreed to provide sign-language interpreters, free of charge, to patients and prospective patients who request an interpreter. In addition, defendants agreed that they will not require a family member of the patient or prospective patient to serve as the interpreter. Defendants also agreed to pay Mr. RUSSO \$1,500 in settlement of the Government's claim for damages, and to pay the United States \$3,500 to settle the Government's claim for civil penalties. The Consent Decree also provides for a three-year period of monitoring and oversight by the Government to ensure compliance with federal law and the settlement agreement.

Mr. KELLEY stated: "Today's settlement recognizes the important principle that persons with disabilities, including persons who are deaf or hearing impaired, must be treated as individuals, and cannot be categorically excluded from a service because of their disability."

Assistant United States Attorney ANDREW W. SCHILLING is in charge of the case.

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